



DUPLICATE ORIGINAL

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APPROVED: _____

JOHN P. CRONAN / MICHAEL FERRARA
Assistant United States AttorneysBEFORE: HON. RONALD L. ELLIS
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA :

- v. - :

SEALED COMPLAINTSULAIMAN ABU GHAYTH, :
a/k/a "Suleiman Abu Gayth," :Violation of
18 U.S.C. § 2332

Defendant. :

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SOUTHERN DISTRICT OF NEW YORK, ss.:

TERRENCE MCGHEE, being duly sworn, deposes and says that he is a Detective with the New York City Police Department ("NYPD"), assigned to the New York-based Joint Terrorism Task Force ("JTTF"), and charges as follows:

COUNT ONEConspiracy To Kill United States Nationals

1. From at least in or about May 2001, up to and including in or about 2002, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, who will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed to kill nationals of the United States.

2. It was a part and object of the conspiracy that SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, and others known and unknown, would and did murder United States nationals anywhere in the world.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu

Gayth," the defendant, and others known and unknown committed the following overt acts, among others:

a. In or about May 2001, ABU GHAYTH urged individuals at a "guest house" in Kandahar, Afghanistan, to swear an oath of allegiance to Usama Bin Laden.

b. ABU GHAYTH delivered a speech following September 11, 2001, on behalf of al Qaeda, in which, in sum, substance, and part, ABU GHAYTH warned the United States that attacks on airliners would continue.

(Title 18, United States Code, Sections 2332(b) and 3238.)

The bases for my knowledge and the foregoing charges are as follows:

4. I am a Detective with the NYPD, assigned to the JTTF, and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with law enforcement agents and others, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

I. Background on Al Qaeda

5. Based on my training and experience as a counter-terrorism task force officer assigned to the JTTF, my review of open source and law enforcement materials, and my conversations with other law enforcement agents, I learned the following about al Qaeda:

a. From in or about 1989, up to and including the time of the filing of this Complaint, al Qaeda has been an international terrorist group that is dedicated to opposing non-Islamic governments with force and violence. On or about October 8, 1999, al Qaeda was designated by the United States Secretary of State as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act, and has remained so designated since that time.

b. Usama Bin Laden ("Bin Laden") was the leader, or "emir," of al Qaeda until his death on or about May 2, 2011. Members of al Qaeda typically have pledged an oath of allegiance (called a "bayat") to Bin Laden and al Qaeda.

c. From 1989 until in or about 1991, al Qaeda was headquartered in Afghanistan and Peshawar, Pakistan. In or about 1991, the leadership of al Qaeda, including Bin Laden, relocated to the Sudan. Al Qaeda was headquartered in the Sudan from approximately 1991 until 1996, but still maintained offices in various parts of the world. In or about 1996, the leadership of al Qaeda relocated the organization to Afghanistan.

d. Up to in or about September 2001, al Qaeda maintained a fortified compound near Kandahar, Afghanistan, which served as the group's operational hub. The compound was also home to many of al Qaeda's leaders and their families. In addition, al Qaeda maintained guest houses in Afghanistan to be used by al Qaeda members and those otherwise associated with al Qaeda.

e. The core purpose of al Qaeda, as stated by Bin Laden and other leaders, is to support violent attacks against property and nationals, both military and civilian, of the United States and other countries. Between 1989 and 2001, al Qaeda established training camps, guest houses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of training and supporting its agenda of violence and murder. Those suspected of collaborating against al Qaeda were to be identified and killed.

f. Bin Laden and other al Qaeda leaders unambiguously announced their agenda of terror and murder through various declarations. For instance, in 1996, Bin Laden issued a public "Declaration of Jihad Against the Americans," which called for the murder of United States military personnel serving on the Arabian peninsula. In February 1998, Bin Laden and his deputy, Ayman al-Zawahiri ("al-Zawahiri"), issued a purported *fatwah*, which is a ruling on Islamic law, calling on all Muslims able to do so to kill Americans, whether civilian or military, anywhere in the world.

g. Members and associates of al Qaeda, both known and unknown, have executed a number of terrorist attacks, all in furtherance of the organization's stated conspiracy to kill Americans. Among the most noteworthy terrorist attacks have been: the August 7, 1998 attacks against the United States embassies in Kenya and Tanzania, which killed approximately 224 people; the October 12, 2000 attack on the *USS Cole* in Aden, Yemen, which killed seventeen United States Navy sailors; and the attacks on the United States on September 11, 2001 in New York, Virginia, and Pennsylvania, which killed approximately 2,976 people.

II. The Cooperating Witness

6. Law-enforcement officers assigned to the JTTF have spoken with an individual who is cooperating with the United States Government (the "CW").¹ Based on my review of reports of those interviews and my conversations with law enforcement officers who have interviewed the CW, I have learned the following, in sum, substance, and part:

a. The CW positively identified a photograph of SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant. The CW met ABU GHAYTH at a guest house in Kandahar, Afghanistan, in May 2001. The CW stayed at this guest house with others prior to attending training at an al Qaeda camp.

b. While the CW was at the guest house, ABU GHAYTH hosted a small gathering at the guest house after dinner and prayer. During this gathering, ABU GHAYTH discussed the concept of giving *bayat* (an oath of allegiance) to Bin Laden. ABU GHAYTH encouraged the attendees at the guest house to give *bayat* to Bin Laden. ABU GHAYTH explained that, by giving *bayat* to Bin Laden, the attendees also would be giving *bayat* to Mullah Omar (the leader of the Taliban), because Bin Laden had himself given *bayat* to Mullah Omar.

c. On the CW's fourth day at the guest house, Bin Laden visited and spoke to the individuals at the guest house. When asked by one of the attendees about what could be done about threats from America, Bin Laden responded, in substance, "They have threatened us and we have threatened them. We have people who are willing to carry souls in their hands."

d. After spending about five days at this guest house, the CW and others were moved to a training camp. The training that the CW received at this camp included training in how to shoot, disassemble, clean, and assemble a Kalashnikov rifle. While the CW was at this training camp, Bin Laden came to speak, and announced the alliance between the Egyptian Islamic Jihad and al Qaeda.

¹ The CW pled guilty to providing material support to a foreign terrorist organization, in violation of Title 18, United States Code, Section 2339B, pursuant to a cooperation agreement with a United States Attorney's Office. The CW has been sentenced and has completed the CW's term of incarceration. The CW remains willing to assist in the investigation and prosecution of others. Information provided by the CW generally has proved to be accurate, in that it has been corroborated by other evidence.

7. From my training and experience as a law enforcement officer assigned to JTTF, I have learned about al Qaeda's use of training camps to instruct its members and supports on military tactics, including particular camps utilized by al Qaeda. Based on the CW's description of the camp, including its location, I have determined that the camp is the al Faruq training camp. The al Faruq camp was a terrorist training camp located in the vicinity of Kandahar, Afghanistan. The al Faruq camp was operated by al Qaeda to train its supporters and operatives, including during the timeframe of mid-2001. I have learned that individuals attending al Faruq typically received training in the use of various weapons and military tactics, as well as religious instructions.

III. Videos

8. I have spoken with a witness (the "Witness") who has visited various jihadi online forums and has viewed videos on those forums that feature SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, delivering speeches. Two of those videos are discussed below and are referred to herein as Video-1 and Video-2. The Witness has advised me that, after viewing Video-1 and Video-2, he/she downloaded the videos to his/her computer to preserve them.

9. I have reviewed draft English translations of Video-1 and Video-2. The following paragraphs reflect the English translations of Video-1 and Video-2. Each of the summaries set out in the following paragraphs are presented in sum, substance, and part.

A. Video-1

10. Video-1 depicts SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, sitting with a firearm by his side and with Bin Laden and al-Zawahiri sitting next to him. ABU GHAYTH made the following statements during Video-1, among others, in sum and substance:

a. "What happened to it [America] is because of this policy, and that if it continues to pursue this policy, the sons of Muslims will not stop under any circumstances from taking revenge; to revenge the injustice and oppression that has befallen them. Punishment in the like is a natural affair."

b. "The American people must know that they bear full responsibility, and that what is happening to them is because of their support for this policy that the American government is practicing."

c. "America's declaration of war on Afghanistan and the mujahedin, led by Osama bin Laden, is a clear statement and an overt hostility toward Islam and Muslims. However, America and its allies in this stand must know that we are capable, with the permission of God the Almighty, to continue down the path by virtue of our faith, confidence, creed, and certainty of the victory of God the Almighty. We are capable of engaging in this confrontation even if the entire nations of disbelief and even if all the Arabs and non-Arabs were to gather against us. Suffice with the words of God the Almighty, 'A great army is gathering against you.'"

d. "This is our creed; this certainty of belief we carry in our hearts. We are capable of confrontation by the grace of God the Almighty. If these blows and this clear divine anger against America, and what happened to the Russians before does not deter it, then America must know that the beginning of its fall, by the grace of God the Almighty and shall come with the first step it takes on the blessed land of Afghanistan."

e. "This is a final call which I address to the Nation of One Billion, to the nation of Islam, to the nation of jihad, to the nation of Mohammed, may God's peace and blessings be upon him, to the grandsons of Abu Bakr, Omar, and Khalid Ibn Al-Walid. I tell them, o ride forth, the steed of God, o ride forth the steed of God, o ride forth the steed of God, for what has happened has happened, and the battle is a decisive battle between faith and disbelief. So choose the trench in which you shall be, for there are only two trenches, and no third one! Either you shall in the people of faith trench, or you shall be in the people of disbelief trench. The banner has been raised, and I do not believe that there is any other one as clear as this banner that has been raised in our current era in a declaration of jihad against the Jews, the Christians and the Americans; against those who try to denigrate what is sacred to the Muslims, to occupy their lands and shed their blood!"

f. "This is the divine call to you, asking 'And why should ye not fight in the cause of Allah and of those who, being weak, are ill-treated (and oppressed)?' Men, women, and children, whose cry is: 'Our Lord! Rescue us from this town, whose people are oppressors; and raise for us from thee one who will protect; and raise for us from thee one who will help!' Those who believe fight in the cause of Allah, and those who reject Faith Fight in the cause of Evil: So fight ye against the friends of Satan: feeble indeed is the cunning of Satan."

11. After SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, spoke in Video-1, both al-Zawahiri and Bin Laden (who were sitting next to ABU GHAYTH) delivered speeches.

Al-Zawahiri continued to speak out against America and made the following statements during this video, among others, in sum and substance:

a. "O American people, have you ever thought of asking a question? Why all this enmity against America and Israel? Why all this hate in the hearts of Muslims against America? The answer is clear and simple. America has committed crimes against the community of Muslims the likes of which no human being can withstand."

b. "America is the leader of the criminals in the crime of establishing Israel, a crime which has been ongoing for the last fifty years. The Islamic nation cannot accept the continuation of this crime. Your governments are the ones besieging and killing indeed the children in Iraq. Your governments are aiding corrupt governments in our countries, supporting and backing them. O American people, your government is driving you towards a new losing war."

12. Bin Laden spoke last in Video-1, following SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, and al-Zawahiri. Bin Laden continued to disparage American policies and plainly stating that Americans will not have security those policies change. Bin Laden made the following statements during this video, among others, in sum and substance

a. "Now there is America who has been struck by God the Almighty in one of its death sites, and so the Almighty destroyed one of the greatest of its building. Praise and thanks is due to God. And here is America has been filled with fear from north to south and from east to west. Praise and thanks is due to God. What America is tasting today is but a trifle of what we have been tasting for decades."

b. "After this event, after senior officials in the U.S.A., starting with the world's leader of disbelief, Bush, and those standing with him, who have all headed forth in enmity and aggression as a force of evil with their men and their steed. They turned even those countries which ascribe themselves as Muslim against this faction which has set out to flee with its faith to God the Almighty. [A faction] refusing to give their religion in exchange for the life of this world. They have set forth wishing to wage war against Islam, and to deceive the people in the name of terrorism! People on the edge of the earth, in Japan, hundreds of thousands of them, young and old, were killed. This is not a war crime, this is a matter of perspective! A million children killed in Iraq is perspective; when only a few dozens of them were killed in Nairobi and Dar es Salaam. [In response] Afghanistan and Iraq were bombed and the

entire world of hypocrisy stood behind the leader of the world's disbelief, behind the 'Hubal² of this age,' America and those with her."

c. "As for America and its people, I have a few words: I swear by God the Great, who raised the heavens with no columns, neither America nor anyone living in America shall live in security until we live it as a reality in Palestine, and until all the armies of the disbelievers leave the land of Mohammed, peace be upon him."

B. Video-2

13. Video-2 depicts another speech by SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant. In this speech, ABU GHAYTH delivered a message to the United States Secretary of State that attacks similar to those of September 11, 2001 would continue, and advised Muslims, children, and other opponents of the United States to avoid airplanes and high rise buildings. In particular, ABU GHAYTH stated, among other things: "I am sending a message to the U.S. Secretary of State who expressed doubt about our previous statement and took it lightly when we announced that the storm of aircraft will not stop, because there are thousands of young Muslims who are going to die for the sake of God the almighty. So I say to him frankly, tomorrow shall come soon enough, and the news is what you see, not what you hear. With the permission of God the Almighty, the storms shall not stop, especially the Airplanes Storm. For emphasis, we urge and we advise Muslims in America as well as children, and those who reject the unjust American policies, not to board any aircraft and not to live in high rises."

C. Video-3

14. I have reviewed another video, which is referred to herein as Video-3. Video-3 was obtained online from a search of publicly available materials, and also depicts SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant. I have reviewed an English translation of Video-3. The summary of Video-3 set out in the following paragraph is presented in sum, substance, and part.

15. Video-3 depicts a speech delivered by SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, in which he announced that the battle against former U.S. President George W. Bush and former United Kingdom Prime Minister Tony Blair in

² "Hubal" appears to be a reference to an ancient Arabian pagan diety.

Afghanistan was ongoing, and declared, specifically on behalf of al Qaeda, that former U.S. Presidents George H.W. Bush, George W. Bush, and William Clinton, former British Prime Minister Blair, and former Israeli Prime Minister Ariel Sharon, were criminals. In addition, in this speech (similar to the speech delivered in Video-2), ABU GHAYTH addressed the Secretary of State and warned that terrorist attacks would continue and advising Muslims, children, and opponents of the United States to avoid airliners and high rise buildings. Specifically, ABU GHAYTH made the following statements, among others:

a. "[T]he crusader campaign led by the two crusaders Bush and Blair is still ongoing in the Islamic land of Afghanistan. A campaign against its people who are proving day after day their sacrifices, their steadfastness, and their insistence on supporting their religion and belief. We ask God the Almighty and Great to make them steadfast, to strengthen their hearts and to help them against the disbelievers. We also declare our total stand by this Emirate, and by the Afghan Muslim people against this vicious attack, with all that we possess in material and moral strength, under the leader of the Leader of the Faithful, Mullah Omar, may God protect him and grant him manifest victory."

b. "[T]he al Qaeda organization declares that Bush the father, Bush the son, and Clinton, among them, as well as Blair and Sharon, are the top criminals among the Zionists and Crusaders. They have committed the most horrendous tragedies and grotesque acts against the Islamic Nation in terms of murder, massacre, and expulsion. The blood of these people will not be shed in vain, by the permission of God the Almighty, until we exercise just retribution on their behalf against these criminals. Bush in the high of his arrogance and the din of his media clamor for perpetual freedom, which he always touts, must not forget the sight of Mohammed Al-Durrah and his brothers, among Muslim children in Palestine and Iraq."

c. "[W]e also extend greetings to the young Mujahidin who know their role and the way in which to repel the aggression of the oppressors, and so they killed these people [non-Muslims on the Arabian Peninsula]."

d. "Finally, I want to send a message to the U.S. Secretary of State, who expressed doubt about our previous statement. He downplayed our statement that the storm of aircraft will not stop, because there are thousands of young Muslims who seek to die for the sake of God the Almighty; that the Storm of the Airplanes will not stop, by the permission of

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God the Almighty. Paul³ and the others in the American administration know that if al Qaeda organization promises or threatens, it fulfills, God willing. And this is why we say to him explicitly, tomorrow shall come soon enough, and the news is as you see and not as you hear. The storms shall not lessen, especially the Storm of the Airplanes, until you withdraw from Afghanistan in defeat, until you stop supporting the Jews in Palestine, until you stop the embargo on the people of the free will, until you leave the land of the Arabian Peninsula, and until you stop supporting the Hindus in Kashmir against the Muslims."

e. "Finally, as a word of advice and for emphasis, we strongly advise Muslims in America and the Britain, the children, and those who reject the unjust American policies, we advise them not to board aircraft and not to live in high rises."

WHEREFORE, the deponent respectfully requests that a warrant be issued for the arrest of SULAIMAN ABU GHAYTH, a/k/a "Suleiman Abu Gayth," the defendant, and that he be imprisoned, or bailed, as the case may be.

Det. Terrence McGhee
TERRENCE MCGHEE
Detective
New York City Police Department
Joint Terrorism Task Force

Sworn to before me this
28th day of December 2012.

Ronald L. Ellis
HON. RONALD L. ELLIS
United States Magistrate Judge
Southern District of New York

³ This mention of "Paul" appears to be a reference to Paul Wolfowitz, the Deputy Secretary of Defense from January 2001 to June 2005.